

AMENDED IN ASSEMBLY MAY 23, 2014

AMENDED IN ASSEMBLY MAY 7, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1917

Introduced by Assembly Member Gordon

February 19, 2014

An act to add Section 1367.0095 to the Health and Safety Code, and to add Section 10112.298 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 1917, as amended, Gordon. Outpatient prescription drugs: cost sharing.

Existing federal law, the federal Patient Protection and Affordable Care Act (PPACA), enacts various health care coverage market reforms that take effect January 1, 2014. Among other things, PPACA requires that a health insurance issuer offering coverage in the individual or small group market to ensure that the coverage includes the essential health benefits package, as defined. PPACA requires the essential health benefits package to limit cost-sharing for the coverage in a specified manner. PPACA also requires a group health plan to ensure that any annual cost-sharing imposed under the plan does not exceed those limitations. PPACA specifies that certain of its reforms do not apply to grandfathered plans, as defined.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation

of health insurers by the Department of Insurance. Existing law requires an individual or group health care service plan contract or health insurance policy, including a specialized plan contract or policy, but excluding a grandfathered health plan, that provides coverage for essential health benefits, as defined, and that is issued, amended, or renewed on or after January 1, 2015, to provide for an annual limit on out-of-pocket expenses for all covered benefits that meet the definition of essential health benefits.

With respect to a health care service plan contract or health insurance policy that is subject to those annual out-of-pocket limits, and is issued, amended, or renewed on or after January 1, 2016, for an individual contract or policy, or July 1, 2015, for a group contract or policy, this bill would require that the copayment, coinsurance, or any other form of cost sharing for a covered outpatient prescription drug for an individual prescription ~~for a supply of up to 30 days not exceed $\frac{1}{24}$~~ *not exceed $\frac{1}{12}$ of the annual out-of-pocket limit for a supply of up to 30 days of a drug* that does not have a time-limited course of treatment or that has a time-limited course of treatment of more than 3 months. For a drug that has a time-limited course of treatment of 3 months or less, the bill would require that the copayment, coinsurance, or other form of cost sharing not exceed $\frac{1}{2}$ of the annual out-of-pocket limit *for the time-limited course of treatment*. The bill would specify that its provisions also apply to specialized plan contracts and policies that offer essential health benefits, as specified. Because a willful violation of the bill's requirements by a health care service plan would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1367.0095 is added to the Health and
- 2 Safety Code, to read:
- 3 1367.0095. (a) (1) With respect to an individual or group
- 4 health care service plan contract subject to Section 1367.006, the

1 copayment, coinsurance, or any other form of cost sharing for a
2 covered outpatient prescription drug for an individual prescription
3 ~~for a supply of up to 30 days~~ shall not exceed the following:

4 (A) For a prescription drug that does not have a time-limited
5 course of treatment or that has a time-limited course of treatment
6 of more than three months, ~~$\frac{1}{24}$~~ $\frac{1}{12}$ of the annual out-of-pocket limit
7 applicable under Section 1367.006 *for a supply of up to 30 days*.

8 (B) For a prescription drug that has a time-limited course of
9 treatment of three months or less, $\frac{1}{2}$ of the annual out-of-pocket
10 limit applicable under Section 1367.006 *for the time-limited course*
11 *of treatment*.

12 (2) For a health care service plan contract that meets the
13 definition of a high deductible health plan set forth in Section
14 223(c)(2) of Title 26 of the United States Code, paragraph (1) shall
15 only apply once an enrollee's deductible has been satisfied for the
16 plan year.

17 (3) Paragraph (1) shall not apply to coverage under a health care
18 service plan contract for the Medicare Program pursuant to Title
19 XVIII of the federal Social Security Act (42 U.S.C. Sec. 1395 et
20 seq.).

21 (b) *The cost-sharing limits established in subdivision (a) shall*
22 *only apply to outpatient prescription drugs covered by the contract*
23 *that constitute essential health benefits, as defined in Section*
24 *1367.005.*

25 ~~(b)~~

26 (c) Nothing in this section shall be construed to affect the
27 reduction in cost sharing for eligible enrollees described in Section
28 1402 of PPACA and any subsequent rules, regulations, or guidance
29 issued under that section.

30 ~~(e)~~

31 (d) If an essential health benefit, as defined in Section 1367.005,
32 is offered or provided by a specialized health care service plan
33 contract, this section shall apply to the outpatient prescription drugs
34 covered by the contract that constitute essential health benefits.
35 This section shall not apply to a specialized health care service
36 plan contract that does not offer or provide an essential health
37 benefit, as defined in Section 1367.005.

38 ~~(d)~~

39 (e) This section shall only apply to an individual health care
40 service plan contract that is issued, amended, or renewed on or

1 after January 1, 2016, and to a group health care service plan
2 contract that is issued, amended, or renewed on or after July 1,
3 2015.

4 (e)

5 (f) For purposes of this section, the following definitions shall
6 apply:

7 (1) “Outpatient prescription drug” means a drug approved by
8 the federal Food and Drug Administration, and prescribed by a
9 licensed health care professional acting within his or her scope of
10 practice, that is self-administered by a patient, administered by a
11 licensed health care professional in an outpatient setting, or
12 administered in a clinical setting that is not an inpatient setting.

13 (2) For nongrandfathered health care service plan contracts in
14 the group market, “plan year” has the meaning set forth in Section
15 144.103 of Title 45 of the Code of Federal Regulations. For
16 nongrandfathered health care service plan contracts sold in the
17 individual market, “plan year” means the calendar year.

18 (3) “PPACA” means the federal Patient Protection and
19 Affordable Care Act (Public Law 111-148), as amended by the
20 federal Health Care and Education Reconciliation Act of 2010
21 (Public Law 111-152), and any rules, regulations, or guidance
22 issued thereunder.

23 SEC. 2. Section 10112.298 is added to the Insurance Code, to
24 read:

25 10112.298. (a) (1) With respect to an individual or group
26 health insurance policy subject to Section 10112.28, the copayment,
27 coinsurance, or any other form of cost sharing for a covered
28 outpatient prescription drug for an individual prescription ~~for a~~
29 ~~supply of up to 30 days~~ shall not exceed the following:

30 (A) For a prescription drug that does not have a time-limited
31 course of treatment or that has a time-limited course of treatment
32 of more than three months, ~~$\frac{1}{24}$~~ $\frac{1}{12}$ of the annual out-of-pocket limit
33 applicable under Section 10112.28 *for a supply of up to 30 days*.

34 (B) For a prescription drug that has a time-limited course of
35 treatment of three months or less, $\frac{1}{2}$ of the annual out-of-pocket
36 limit applicable under Section 10112.28 *for the time-limited course*
37 *of treatment*.

38 (2) For a health insurance policy that meets the definition of a
39 high deductible health plan set forth in Section 223(c)(2) of Title

1 26 of the United States Code, paragraph (1) shall only apply once
2 an insured's deductible has been satisfied for the plan year.

3 (3) Paragraph (1) shall not apply to coverage under a health
4 insurance policy for the Medicare Program pursuant to Title XVIII
5 of the federal Social Security Act (42 U.S.C. Sec. 1395 et seq.).

6 *(b) The cost-sharing limits established in subdivision (a) shall*
7 *only apply to outpatient prescription drugs covered by the policy*
8 *that constitute essential health benefits, as defined in Section*
9 *10112.27.*

10 ~~(b)~~
11 (c) Nothing in this section shall be construed to affect the
12 reduction in cost sharing for eligible insureds described in Section
13 1402 of PPACA and any subsequent rules, regulations, or guidance
14 issued under that section.

15 ~~(e)~~
16 (d) If an essential health benefit, as defined in Section 10112.27,
17 is offered or provided by a specialized health insurance policy,
18 this section shall apply to the outpatient prescription drugs covered
19 by the policy that constitute essential health benefits. This section
20 shall not apply to a specialized health insurance policy that does
21 not offer or provide an essential health benefit, as defined in
22 Section 10112.27.

23 ~~(d)~~
24 (e) This section shall only apply to an individual health insurance
25 policy that is issued, amended, or renewed on or after January 1,
26 2016, and to a group health insurance policy that is issued,
27 amended, or renewed on or after July 1, 2015.

28 ~~(e)~~
29 (f) For purposes of this section, the following definitions shall
30 apply:

31 (1) "Outpatient prescription drug" means a drug approved by
32 the federal Food and Drug Administration, and prescribed by a
33 licensed health care professional acting within his or her scope of
34 practice, that is self-administered by a patient, administered by a
35 licensed health care professional in an outpatient setting, or
36 administered in a clinical setting that is not an inpatient setting.

37 (2) For nongrandfathered health insurance policies in the group
38 market, "plan year" has the meaning set forth in Section 144.103
39 of Title 45 of the Code of Federal Regulations. For

1 nongrandfathered health insurance policies sold in the individual
2 market, “plan year” means the calendar year.

3 (3) “PPACA” means the federal Patient Protection and
4 Affordable Care Act (Public Law 111-148), as amended by the
5 federal Health Care and Education Reconciliation Act of 2010
6 (Public Law 111-152), and any rules, regulations, or guidance
7 issued thereunder.

8 SEC. 3. No reimbursement is required by this act pursuant to
9 Section 6 of Article XIII B of the California Constitution because
10 the only costs that may be incurred by a local agency or school
11 district will be incurred because this act creates a new crime or
12 infraction, eliminates a crime or infraction, or changes the penalty
13 for a crime or infraction, within the meaning of Section 17556 of
14 the Government Code, or changes the definition of a crime within
15 the meaning of Section 6 of Article XIII B of the California
16 Constitution.